

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BARBARA J. SMITH,
substitute party for
Gary E. Smith, deceased,

Plaintiff,

CV-08-1152-MA

ORDER OF REMAND

v.

MICHAEL J. ASTRUE,
Commissioner of
Social Security,

Defendant.

Based on the record and the stipulation of the parties, this action is reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g). On remand, the Commissioner shall issue a fully favorable decision, finding that Gary E. Smith was disabled from March 19, 2004 (his amended date of disability onset), to April 18, 2007 (his date of death). Pursuant to 20 C.F.R. §404.316(b)(1), plaintiff's entitlement to benefits ended on March 31, 2007, the month prior to Mr. Smith's death. Plaintiff is entitled to reasonable attorney fees and costs pursuant to the

Equal Access to Justice Act, 28 U.S.C. § 2412(d), upon proper request to the court.

IT IS SO ORDERED.

Dated this 14 day of September, 2009.

/s/ Malcolm F. Marsh
Malcolm F. Marsh
United States District Judge